

REMARKS

Applicant elected to prosecute the Group I claims 1-13. Claims 14-44 have been cancelled.

In the pending Office Action, claims 1, 2, 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,744,293 (*Fu*). The Applicant traverses the rejection for the reasons specified below.

Claim 1, among other things, calls for a second circuit adapted to receive a first signal, to receive a second signal, and to modify the second signal based upon the control signal. Claim 1 further specifies that the second circuit is adapted to provide the first signal and the modified second signal as input signals to the phase detector. Because this claim feature makes a reference to a "first signal" and a "modified second signal," and further specifies that these two signals are provided to the phase detector, claim 1 thus calls for providing at least two signals to the phase detector.

The Examiner argues that the "first signal" of claim 1 corresponds to signal 103 of *Fu*, and the "modified signal" corresponds to signal 109. See Office Action, pages 2-3. The Examiner argues that the modified signal 109 of *Fu* becomes signal 103 and, consequently, both are input signals to the phase detector 106. See Office Action, page 3. The Examiner's application of *Fu* is problematic. Although claim 1 specifies that two signals (i.e., a first signal and a modified second signal) are provided to the phase detector, the Examiner, in applying the *Fu* reference, simply collapses these signals into one signal. This is clearly improper. Under the Examiner's interpretation, the "first signal" of claim 1 is the same as the "second modified signal," even though the express language of the claims distinguish between the two (i.e., the

claim uses both terms, and, as such, they presumptively refer to different things). Thus, for this reason, the Examiner's argument is flawed.

The Examiner's argument fails for an additional reason. Claim 1 specifies that the second circuit is adapted to provide the first signal and the modified second signal as input signals to the phase detector. Under the Examiner's application of *Fu*, the second circuit is the combination of buffer 104 and VDU 102. And as previously noted, the Examiner argues that signal 109 corresponds to the "modified second signal" of claim 1. In *Fu*, the signal 109 (which the Examiner asserts corresponds to the "modified second signal") is provided to the buffer 104 (which the Examiner asserts corresponds to the "second circuit"). In contrast, however, claim 1 calls for the "modified second signal" to be provided to the "phase detector." Thus, for this additional reason, the Examiner's rejection is erroneous. Accordingly, claim 1, and its dependent claims, should be allowed.


Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Fu*. The Examiner cites no secondary reference to reject the claimed combination of subject matter covered by claims 4-6. Because the Office cites *no secondary references* to support this "obviousness" assertion, the Applicant infers that the Examiner makes this assertion based on personal knowledge. However, no supporting affidavit has been made of record. The Applicant respectfully requests that prior art be provided to substantiate this "obviousness" assertion or that an affidavit be filed in accordance with 37 C.F.R. § 1.104(d)(2), which states (emphasis added):

(2) When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference *must* be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

Consequently, the Applicant respectfully and seasonably requests the Office to either (1) cite a reference in support of this position, or (2) provide a Rule 104(d)(2) affidavit from the Examiner supporting any facts within the personal knowledge of the Examiner, as also set forth in M.P.E.P. § 2144.03.

In view of the foregoing reasons, the Applicant respectfully requests the Examiner to allow the claims.

The Examiner is invited to contact the undersigned attorney at (713) 934-4064 with any questions, comments or suggestions relating to the referenced patent application.

Date: <u>8/29/05</u>	<p>Respectfully submitted,</p> <p>WILLIAMS, MORGAN & AMERSON, P.C. CUSTOMER NO. 23720</p> <p>By: </p> <p>Ruben S. Bains, Reg. No. 46,532 10333 Richmond, Suite 1100 Houston, Texas 77042 (713) 934-4064 (713) 934-7011 (facsimile) ATTORNEY FOR APPLICANT(S)</p>
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